



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable Reuben Williams, Commissioner
Board of Insurance Commissioners
Austin, Texas

Dear Sir:

Attention of Mr. J. E. Lyles

Opinion No. 0-2752

Re: Payment of premium on bond for the
Casualty Insurance Commissioner.

Your recent request for an opinion of this department on the above stated matter has been received. We quote from your letter as follows:

"The Casualty Insurance Department presented a bill to the Comptroller's Department for payment which covers premium on a bond for the Casualty Insurance Commissioner required by the statute. The Comptroller's Department would not approve the bill, stating that it could not be paid out of the contingent appropriation. It is our opinion that it should be paid out of contingent funds as there is no special appropriation for bonds, and since this bond is required by the statute as mentioned above.

"Therefore, we would like to have an opinion from your department as to how this item should be paid."

It appears that the appropriation bill provides no sum of money specifically for the payment of the bond premium of the Casualty Insurance Commissioner. Article 4679d, Vernon's Annotated Civil Statutes reads as follows:

"Sec. 6. Each of the members of the Board of Insurance Commissioners shall, before entering upon the duties of his office, give a good bond to the State of Texas in the sum of five

thousand (\$5,000.00) dollars, to be approved by the Governor, conditioned upon the faithful discharge of the duties of his office.

"Sec. 6A. Compensation to be paid the Commissioners shall be such sums as are provided for by the appropriation bills from time to time.

"Sec. 6B. Nothing in this bill shall be construed to in any manner affect the duties now imposed by law on the Industrial Accident Board or to take from said board the performance of the duties now imposed on said board by law."

As stated in our Opinion No. 0-2092:

"It is the rule that an officer or agent of the State is allowed only such compensation and emoluments as are expressly conferred upon him as remuneration for the discharge of his official duties as an agent of the State. *McCalla v. City of Rockdale*, 112 Tex. 209, 246 S.W. 654. It follows that any public officer or agent who demands mileage fees or expenses must point out some statute authorizing its allowance. Where a duty requiring an expenditure of money is imposed upon a public officer or agent, and no provision is made to defray the same, such officer or agent is deemed to be repaid for the expenses incurred in the discharge of such duty by whatever compensation is allowed and paid to him for his services as such public agent."

It is therefore apparent that, in order for the Casualty Insurance Commissioner to be entitled to reimbursement for the expense incurred by him in furnishing the bond required by statute, there must exist some statutory provision for the allowance and payment of the same.

There is no provision of the general statutes or the current appropriation bill, that we have been able to find, which authorizes reimbursement to the Casualty Insurance Commissioner for expenses incurred by him in furnishing

Honorable Reuben Williams, Commissioner, Page 3

the bond required by Article 4679d, supra.

Since there is no provision of the statute or specific item in the appropriation bill contemplating reimbursement by the State to the Casualty Insurance Commissioner for the expenses incurred by him in furnishing the official bond required by law, you are respectfully advised that it is the opinion of this department that such bond premium cannot be regarded as a contingent item of expenses lawfully to be incurred by the Insurance Department, and, therefore, such bond premium may not be paid by the Insurance Department out of its contingent expense fund, but the premium of such bond should be paid personally by the Casualty Insurance Commissioner.

Trusting that the foregoing fully answers your inquiry, we are

Very truly yours

ATTORNEY GENERAL OF TEXAS

By

Ardell Williams

Ardell Williams
Assistant

APPROVED SEP 23, 1940

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Terrell B. Mann

ATTORNEY GENERAL OF TEXAS

